

# A message from the Construction Occupations Registrar

CONSTRUCTION NOTE 005/2021

Construction notes have been developed to raise awareness and educate the building and construction industry about common issues identified on building sites by Access Canberra building inspectors, and best practice approaches to address them.

Importantly, we welcome your input – if you have come across an issue that needs clarification, or have feedback about these notes please email us: [cat@act.gov.au](mailto:cat@act.gov.au).

## Retaining Walls

The Construction Occupations Registrar has become aware of issues around the interpretation of wording in Schedule 1 of the [Building Regulation 2008](#) regarding building work which is exempt from identified parts in the [Building Act 2004](#) ([Building Act](#)).

Building work items mentioned in Part 1.3 of Schedule 1 are exempt from requiring a building approval (BA) and therefore a COU subject to meeting the requirements under Column 4 of Part 1.3 Schedule 1 of the Building Regulation.

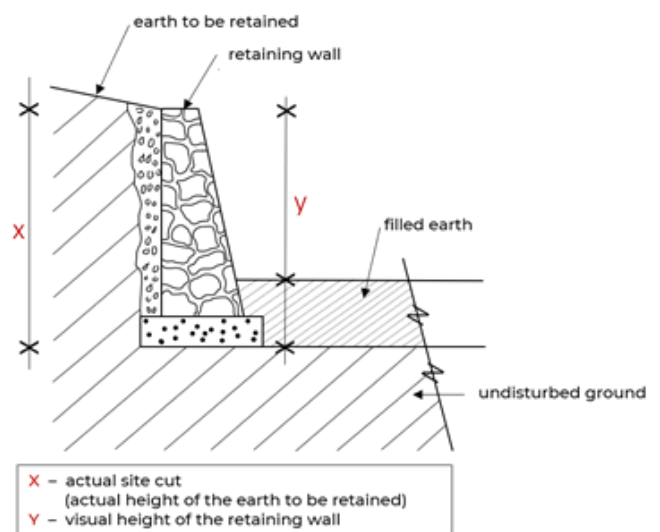
Specifically, how certifiers and builders are applying the BA exemptions to item 4 (retaining wall up to 1.2m in height) and item 5 (retaining wall up to 1.5m in height).

### Part 1.3 Exemption from part of Act

column 1	column 2	column 3	column 4
item	exempt building or building work	provision of Act exempt from	condition on exemption
4	retaining wall up to 1.2m high when measured from any point at top of retaining wall to lowest adjacent ground level	<ul style="list-style-type: none"> <li>a) pt 3 (Building work); and</li> <li>b) pt 5 (Building occupancy); and</li> <li>c) pt 6 (Residential buildings—statutory warranties, standard conditions, insurance and fidelity certificate)</li> </ul>	
5	retaining wall up to 1.5m high when measured from any point at top of retaining wall to lowest adjacent ground level	<ul style="list-style-type: none"> <li>a) pt 3 (Building work), except <a href="#">s 42</a> (1) (a), <a href="#">s 42</a> (1) (b), <a href="#">s 42</a> (1) (c) and <a href="#">s 49</a>; and</li> <li>b) pt 5 (Building occupancy); and</li> <li>c) pt 6 (Residential buildings—statutory warranties, standard conditions, insurance and fidelity certificates)</li> </ul>	<ul style="list-style-type: none"> <li>a) if there is an exempt building code—that code; and</li> <li>b) otherwise—the relevant deemed-to-satisfy provision of the building code</li> </ul>

In both Items 4 & 5, height of the retaining wall to be considered as “when measured from any point at top of retaining wall to lowest adjacent ground level”.

It appears in some cases certifiers and builders are interpreting the wording “when measured from any point at top of retaining wall to lowest adjacent ground level” to the dimension “y” ignoring the actual height of the actual wall and the earth to be retained which is dimension “x” of the below diagram:



The purpose of the retaining wall considering construction requirements is to retain the actual height of the earth cut and not about its visual aspect.

As such, the intent of the wording is to reflect the actual construction requirements and purpose of the retaining wall, as opposed to the visual aspect.

Access Canberra is currently considering a revision to the Building Regulation to better clarify above retaining wall criteria to reflect the purpose of and construction requirements of a retaining wall when measured from the top of the retaining wall to the base of the retaining wall (lowest point of earth cut to retain).

In the interim, all engineer plans must clearly show the actual height dimension of the earth cut to be retained (height dimensions in Items 4 & 5 of Part 1.3 of the Building (General) Regulation 2008 refers to the actual earth cut to be retained) by the proposed retaining wall.